S.B. CIVIL WRIT PETITION NO.1922/2001
Shri Vardhman Jain Uchh Prathmic Vidhyaliya
vs
Om Prakash Solanki

DATE OF ORDER:3.4.2006

HON'BLE MR.R.C. GANDHI, J.

Mr.IR Choudhary]
Mr.RK Soni], for the petitioner.

Mrs.RR Kanwar, Dy.GA, for the respondents.

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The respondent no.1, teacher was an employee of the petitioner, Shri Vardhman Jain Uchh Prathmic Vidhyaliya. The respondent no.1 superannuated from service on 1.7.95. He was granted extension also for a period of two years on account of his good performance.

After the retirement, he filed a petition before the respondent no.4, the Rajasthan Non-Government Educational Institutions Tribunal, Jaipur seeking relief of providing him selection grade of the teacher as he was entitled thereto in terms of Section 29 of the Rajasthan Non-Government Education Institutions Act, 1989.

The petitioner contested the claim of the respondent no.1 before the tribunal.

The tribunal recorded the finding vide order dated 1.4.1999 that the respondent no.1 is entitled to the higher pay scale of the post of teacher as is applicable to the other teachers of the State of Rajasthan.

The petitioner has filed this petition challenging the said order

dated 1.4.1999. The petitioner has also sought relief in para no.2 of the prayer part that instead of the petitioner, the respondent State of Rajasthan be held liable to make payment of the arrears in consequence of placing the respondent no.1 in the higher selection pay scale. The tribunal has also issued direction in the ultimate part of the impugned order that the Director, Primary and Secondary Education, Rajasthan shall also ensure the execution of the order of the tribunal.

The submission of learned counsel for the petitioner is that the petitioner is not in position to comply with the direction of the tribunal as being short of funds. He has fairly stated that in view of the judgment of the full bench of this Court delivered in the case of S.R. Higher Secondary School & Anr. Vs. Raj. Non-Government Educational Institutions Tribunal, Jaipur & 23 others reported in 2002(3) WLC (Raj.) 586, the petitioner alongwith the respondent-State is liable to provide selection pay grade. The petitioner has further submitted that unless the funds are made available by the respondent-State to the petitioner aided institute, the order cannot be complied with by the petitioner for that reason. This plea can be taken by the petitioner in contempt petition if the respondent no.1 seeks execution of the order of the tribunal as the State is equally liable to comply the impugned direction.

In view of the above, I do not find any force in this petition and the same is accordingly, dismissed.

(R.C. Gandhi), J.

c.p.goyal/-